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Attorney for Defendant
JOSE HERNANDEZ CARMONA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
(San Francisco)

UNITED STATES OF AMERICA,)	Case No. 3-07-70279 EDL
)	
Plaintiff,)	DEFENDANT'S REQUEST FOR
)	OF IMMEDIATE VOLUNTARY
vs.)	DEPARTURE OR FOR OSC
)	AND PROPOSED ORDER
JOSE HERNANDEZ CARMONA,)	
and ANDRES RINCON HERNANDEZ)	
)	Date: July TBA, 2007
Defendants.)	Time: 11:00 a.m.
)	Judge: Hon. Elizabeth D. Laporte

On June 28, 2007, this Court sentenced both defendants to unsupervised probation. The defendants were in custody, as a result of the immigration hold imposed by Immigration and Customs Enforcement (ICE), an arm of the Justice Department. This Court issued a judgment order that same day, and it was promptly served on the U.S. Marshal. Counsel for Jose Hernandez Carmona contacted the jail twice over the past two weeks, and was told each time that Mr. Hernandez Carmona is still in custody at the Glenn Dyer Jail on Oakland, on an immigration hold.

At the hearing, the parties and this Court agreed with the need to expedite the processing of the judgment order and ICE's deportation proceedings, to prevent unnecessary incarceration of these two probationers.

It is simply inexcusable that the Justice Department's immigration agency has

1 failed to take over custody of these two young men, and promptly return them to
2 Mexico. They have spent four additional weeks in custody for no reason other than
3 the agency's failure to move forward on the detainers. It is requested that this Court
4 order ICE to take the defendants into ICE custody immediately, and as a sanction for
5 the inexcusable delay, to deliver both men to the Mexican border within 24 hours of
6 the issuance of this Court's order for a "voluntary departure."

7 In the alternative, the defendants request that this Court issue an order to show
8 cause forthwith and that this matter be placed in the Court's calendar for a hearing
9 for the government to show cause why sanctions should not be imposed and the ICE
10 detainer ordered dissolved.

11 Assistant Federal Public Defender Daniel Blank has advised the undersigned
12 that he wishes to join in this request on behalf of his client Andres Rincon
13 Hernandez.

14 Dated: July 23, 2007

Respectfully submitted,

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17 SUZANNE A. LUBAN
Attorney for Jose Hernandez Carmona
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UNITED STATES OF AMERICA,)	Case No. 3-07-70279 EDL
)	(San Francisco)
Plaintiff,)	
)	
vs.)	[PROPOSED] ORDER
)	TO SHOW CAUSE
JOSE HERNANDEZ CARMONA,)	
)	
Defendant.)	
_____)	Judge: Hon. Elizabeth D. Laporte

For good cause shown, IT IS HEREBY ORDERED that:

1. The Immigration and Customs Enforcement (ICE) shall take custody of Jose Hernandez Carmona and Andres Rincon Hernandez forthwith and transport them to the Mexican Border within 24 hours of the issuance of this Order on a voluntary departure; or

2. The Immigration and Customs Enforcement (ICE) and the U.S. Attorney shall appear before this Court on July __, 2007 at 11:00 a.m. and show cause why sanctions should not be imposed for their four-week delay in removing these two probationers from this country.

IT IS SO ORDERED.

Dated: _____, 2007

ELZABETH D. LAPORTE
U.S. Magistrate Judge